

# **REQUEST FOR PROPOSALS**

## **Bureau of Budget and Efficiency** **Systems Development – Budget Preparation and Analysis**

The City of Rochester, New York, Bureau of Budget and Efficiency (BBE) is seeking professional services for the development of requirements definitions and specifications pertaining to its need for further automation of BBE's budget preparation, oversight and analysis responsibilities. The selected consultant will provide to the City: (1) an analysis and evaluation of current functional or system operations and procedures, (2) provide recommendations for improving those functions, and (3) define information systems standards required for the budget function. A summary of BBE processes is attached (Attachment A)

### **MISSION**

BBE provides centralized budget services for the City of Rochester, New York. BBE is managed by the Director who supervises a 10 member staff, including an Assistant Director and a senior staff member who is responsible for the assembly and production of the annual operating budget document. Seven budget analysts are assigned various city departments. BBE develops the City's overall budget plan which includes estimates of expenses and revenues in the next fiscal year and allocations to the departments of their budgets.

### **BACKGROUND**

The information systems in the City's budget function currently uses a mix of new Corel suite, legacy database and spreadsheet programs. Data access, distribution, dissemination, and reports rely on manual processes, duplicate data re-entry, multiple and non-standardized databases.

Installation of a current version office suite necessitates the migration from current processes and methods to newer, more efficient and effective systems to perform the budget function. An analysis is requested of the information systems needs for the budget function, recommendations for areas of improvement, and the development of requirements definitions and specifications those needs.

The City is served by a central Bureau of Information Systems which provides mainframe and distributed computing services. Both the Finance and Human Resources systems are batch-based legacy systems that have had interface and reporting upgrades only since their original adoption twenty years ago. Linkages between the two systems are basic. Neither system has a budget module.

The city uses a modified accrual basis of accounting and uses multiple funds to account for revenues and expenses. While the greater share of the activity is within the tax supported General Funds, there are also enterprises (e.g. water, refuse collection, parking) that function financially as self-supporting functions. BBE provides budget and oversight services for the enterprises as well in a manner indistinguishable from the procedures from those set out above.

## CONSULTANT SERVICES AND PRODUCTS

BBE wishes to replace its current systems and procures for budget preparation with a new integrated system. Such system must:

- A. Eliminate redundancies in data entry
- B. Allow for direct entry of requests by departments into the budget and personnel subsystems while performing math checks
- C. Replicate all existing forms and reports, or their updated versions, in an electronic context such that paper is unnecessary
- D. Allow such forms to be filled out electronically and provide that any item on the form that is already in the database be added automatically and conversely add or delete items to the database as necessary
- E. Perform salary and inflation cost projections. Salary projections need to apply a specific logical rule to calculate step progressions based on longevity and return a salary amount for the coming fiscal year based on a given salary table
- F. Incorporate a format for personnel actions whereby a single file-entity supports all reporting for internal and Human Resource Management review and classification outputs.
- G. Manage the chargeback system so as allow for initial entry and modification from a single point
- H. Allow for multiple access in real time
- I. Track and log changes made to databases
- J. Incorporate necessary security measures, provide for differential authorization and approval levels
- K. Produces a document that includes graphic under the same umbrella as the data sources
- L. Standardization of best practices of individual analysts to perform the tasks and sub tasks of budget preparation by converting them to automated forms, rules and sequences
- M. Permit the downloading of historical expense data from the Financial Information System and the uploading of new line item data to that system. The consultant should assume that no revisions will be made within the Financial or Human Resource Systems.
- N. Support the on screen entry of budget changes made by City Council such that the related language modifications can be merged in the final budget.
- O. The resulting store of forms, data and procedures must allow for creation of a budget that at least matches the information and presentation of the current document yet allows for changes in format and data-handling.

As minimum characteristics the final requirements definition shall:

- A. Reduce clerical overhead
- B. Minimize arithmetic checking
- C. Test for completeness of entries
- D. Eliminate multiple formats for the manipulation of the same data
- E. Provide automatic forms fill in
- F. Merge with graphics into the budget document
- G. Permit data mining and ad hoc reporting

By analyzing each task and product of the budget process, the consultant shall produce, in conjunction with BBE staff, a requirements definition setting forth a revised budget preparation procedure in all respects and explicate the functions and capabilities required from hardware and software to implement the revised system. A separate section of the requirements definition shall set forth the means for implementing the other budget analysis support functions in a manner parallel to that required for the budget preparation process and within the same time frame.

Upon this determination, the consultant shall assist in the identification and review of commercial off the shelf (COTS) software for this purpose and provide a recommendation on a make or buy decision. In the event of a decision to make this product, the consultant may be called upon to produce specifications for this product. The consultant should be aware that while the budget processes may not be modern, some key elements time-tested and time-honored. While some compromise is expected in an COTS solution, we will not lightly abandon essentials as determined by the Budget Director.

The city, in the event it selects to develop a custom product, will proceed with in-house or outside expertise as it sees fit. Assistance and oversight in this phase is a biddable component. Since the extent of the services for programming cannot be determined until the project described herein is completed, no request for bids on this component is made.

The city will consider both mainframe based and distributed solutions. A solution that maximizes BBE control is to be preferred in either case. The budget process is sensitive and confidential and all information is very closely held.

As part of the requirements definition phase, the consultant should expect to interview each BBE staff member according to format developed by the consultant in conjunction with BBE management.

The requirements definition shall be completed within ninety (90) days of notice to proceed. The review of proposed solutions and a recommendation to the Budget Director shall be completed within thirty (30) days following the accepted completion of requirements definition. The form of the product of the requirements definition shall consist of a narrative description of the new process and all components, an attachment of the documents (as modified) pertaining to each part, a flow chart of the revised process in sufficient depth and of sufficient clarity so that the document not only suffices as a basis for any further specifications but can also serve as an introduction and guide for BBE staff and their customers as to the features, functions and processes of the new system.

## PROCESS

Proposals must be postmarked or received by the City no later than May 17, 2005. Attachment B provides the City's standard contract language. Firms must submit three copies of the proposal. Proposals are to be submitted to:

Alan Bredekamp, Associate Administrative Analyst  
Bureau of Budget & Efficiency  
City of Rochester  
City Hall, Room 200A  
30 Church Street  
Rochester, NY 14614-1283  
(585) 428-6658  
bredkmpa@cityofrochester.gov

The consultant selected by the City will enter into a written contract with the City. Attachment B consists of the City's standard contract language. The consultant's response to this RFP indicates its acceptance of this standard language. Consultants considering a response to this RFP should take note of this provision.

## PROPOSAL CONTENT

Consultants responding to this request must provide the following:

- A. A letter of introduction
- B. Relevant work history on similar projects in the public sector and the specific experience of personnel proposed for this project.
- C. A statement describing the methods to be employed to do the research, analyzing the current systems, developing improvements, automating the resulting process and completing the requirements definition.
- D. A similar description of proposed services for review of existing software, development of recommendations for the make-or-buy decision.
- E. A timetable and cost for C. and D.
- F. Professional references from completed work related to this request
- G. Names, resumes, and roles of staff who will be involved in the project. Include the name of the consultant's lead person for the project

Proposals will be reviewed by representatives of the City. All responses will be reviewed by senior personnel. No more than three respondents will be selected for interviews. At the conclusion of the interviews a selection and notice to proceed will be completed within one week. The City's liaison for this project will be the Director of Budget & Efficiency or his representative. The consultant will receive full cooperation from the City regarding access to staff and records determined to be necessary for the project.

The amount agreed upon by the City and the consultant will compensate the consultant selected for professional services, expenses, overhead, and profit. In no event will the sum disbursed by the City exceed this amount, unless agreed to in writing and in a manner required by law and by the City. Proposals will compete on the basis of cost to the City, among other criteria. A disbursement schedule will be negotiated with the consultant selected.

City policy favors contracting with locally based firms, all other factors being equal. Non-local consultants may wish to consider collaborative arrangements with local firms as a strategy to address this criterion.

Consultants should provide sufficient information in their written proposals to enable thorough review. The City reserves the right to invite any or all respondents to an interview to further explore the possibility of engagement. Participation in an interview upon such an invitation would be voluntary. Any expenses resulting from such an interview would be the sole responsibility of the participant. The City is under no obligation to select any of the respondents or to conduct the project described herein.

The City does not discriminate in any aspect of contracting on the basis of age, race, color, national origin, creed, disability, marital status, sex, or sexual orientation.

Request for Proposals  
City of Rochester  
Bureau of Budget and Efficiency  
Systems Development – Budget Preparation and Analysis  
Attachment A – BBE Processes

The final requirement definition will include a means and methods for support of the following:

### Budget Preparation

Each Fall budget analysts determine the maintenance of effort (MOE) estimate for their departments in the next fiscal year. This amount is a projection of what it would cost to provide the services in place during the following year, given adjustments in expense for personnel, supplies and services. A parallel process projects revenues. Each analyst uses a method of his or her own preference to complete this task. Although the principal variables in developing the MOE are employee-by-employee compensation adjustments, a fixed percentage for inflation and modifications to internal chargebacks, each of these is largely developed with little automated assistance and must be calculated manually by each analyst department by department. The results are manually entered into a central file.

Based on budget targets a Budget Level Allocation (BLA) is calculated and presented to departments, which may equal or, more likely, be less than their MOE.

Departments prepare and complete budget requests on standardized forms distributed by BBE. The process commences in December and concludes in February when the department requests are submitted to BBE. Departments have full control over their internal process for developing a budget request, including the form and manner of computerization, if at all. Hard copy completed paper forms are the means by which budget requests are presented to BBE.

### Budget Submission

Upon receipt of the requests BBE staff manually enters data, in no particular order, into three different and independent systems. The first system is the Budget Preparation System, a dBase III application in use since 1983, in which each line item request is entered using its finance system code. Only one user can access the system at any given time. The main uses for this system are to produce hard copy printouts summarizing departmental budgets and summary totals used for control purposes.

The second system consists of the Quattro Pro/Lotus spreadsheets, which each analyst has set up to their own preferences for analysis. This includes the same data that has been entered into the Budget Preparation System as well as other items pertaining to personnel, program changes, year to year variances, various ad hoc requests, etc., including narrative.

The third system consists of a series of Quattro Pro/Lotus spreadsheets that pertain to all users or a second set that pertain to specific users. The community set accumulates data as to full time personnel totals and expenses and benefits and similar organization wide summaries. The specific spreadsheets hold both historical expense and projected budget information for each department including employee years.

## Revenue

Revenue generally follows the same timetable and process, but is handled differently. Revenue estimates are made on a special form, Form F. Some revenue lines are given a single Form F, other lines are combined on a single Form F. Hard copy forms are distributed in December to the department most closely associated with the revenue line; some lines are estimated by BBE. Each Form F is assigned to an analyst who is responsible for reviewing the estimate. Once this estimate is accepted by the analyst, that analyst manually enters this data into a Lotus worksheet and also gives the Assistant Director a copy of that Form F. The analyst may also have their own spreadsheet(s) with this revenue data in which the data must be entered.

The Assistant Director re-enters this data into another Lotus spreadsheet, which is shared in hard copy with the Director, who in turn re-enters the data into another Lotus worksheet. As revenue lines are updated to reflect budget decisions and circumstances, the analyst provides a revised hard copy of the Form F to the Assistant Director. If accepted, the data is revised by the analyst, Assistant Director and Director in these three different spreadsheets, plus the analyst's worksheets; this is repeated with each subsequent revision to that line.

When the Revenue Section of the Budget is ready to be done, the data from the Assistant Director's spreadsheet is copied into another Lotus spreadsheet to do the summation required for the Budget. These summaries are then imported into a WordPerfect document. The categorization and summation of revenue lines is different for the Budget, the Form Fs, and what is on the financial system.



## Budget Review

The data from the first two systems is used to develop the document that is used for review by the Budget Director, BBE and the department, as well as the Mayor and his senior staff. This document, known as Form G, highlights expense and revenue changes by major object of expense (personnel, supplies, services, inflation adjustment, vacancy factor adjust and chargeback changes). Further, it summarizes personnel changes and highlights program adjustments and contains BBE recommendations for further cuts or additions to the BLA. This is prepared in WordPerfect.

Form G begins as a draft that is discussed between the budget analyst and the Budget Director. Resulting revisions become the Budget Director's Meeting Form G for use in meetings among the budget analyst, the Director and the department. Once the Budget Director and Department Head agree on the Form G contents, the document then becomes the Mayor's Meeting Form G and, as the final summary of issues, personnel, expense and revenue impacts. The changes from that meeting form the basis for the recommended budget.

## Budget Document

In preparing the recommended budget each analyst must update BPS, the spreadsheets summarizing personnel and expense data, and his or her own spreadsheets based on decisions made during the Mayor's meeting. Finally, narrative is entered in a WordPerfect document. This document is split into individual departmental sections and imports expense data; personnel summaries are copied and pasted from Lotus spreadsheets into the document as a graphic.

After each department budget has been reviewed and approved, a separate program is used to develop graphs, which are imported into the WordPerfect document.

Once all the subsections are complete, the document is transmitted electronically to a Xerox Docutech 132 to produce sections. The Proposed Budget copies are manually assembled by BBE staff into ring binders the day before the budget is presented to City Council.

Personnel changes associated with the budget are also dealt with by a parallel system involving coordination between BBE and the Bureau of Human Resource Management (BHRM). Upon receipt of the budget requests changes, all personnel changes are manually determined and entered into a separate Quattro spreadsheet and given a control number. This entry is independent of all other entries. This sheet is updated as the personnel decisions are made. At the end of the process the

changes must be reflected on the Personnel Summary pages of the budget. The checking and entry are all manual.

All seasonal, part time and temporary positions must be tallied for creation on the first day of the fiscal year. This process, adjunct to the operating budget process is developed in a parallel manner by BBE and BHRM and is largely manual in both cases.

A multi-year projection is calculated using data from the BPS system and several Lotus worksheets. This projection uses spreadsheet formulas to make inflationary and wage adjustments. Each object of revenue and expense is manually reviewed for its projection assumptions and adjustments.

### Capital Budget

BBE is also responsible for the preparation of the annual capital budget and plan. The Capital Improvement Program (CIP) covers five years the first of which is the budget for cash capital expenditures. The capital process mimics the operating budget in many ways except that it only involves one budget analyst. A rudimentary Access 2000 system provides the database functions, variance reporting and document preparation. The scope of this RFP includes the Capital Budget.

### Quarterly Report

Each quarter a review of revenue and expense is undertaken and a year-end estimate developed. While this effort is partially automated through the preparation of a line item report showing current and past years expense (revenue) history and a straight-line projection of personnel expense this data must now be largely re-entered into individually developed spreadsheets that result in filling out a standardized form.

The automation must include an electronic format for the presentation of the base data and entry of projections. Assistance in the form of rule-based calculations is required. A standardized format will be developed and data developed by the analysts will be formatted into the quarterly report template by automatic forms fill in. For the enterprise funds, balance sheet updates should also be produced.

### Personnel

Sharing of information with BHRM with regard to position availability, vacancies, held positions, civil service agendas and outcomes, position modifications and online processing of PARFs (Personnel

Action Request Form). Among the calculations to be included will provide the capability to project the value of current vacancies and project that amount forward according to an applied rule.

### Revenue Manual

Provide an on-line database to allow keeping and updating information on revenue accounts and their analysis. Information to include: legal origin or basis, fee structure, update history, description, trend analysis and annotation of the account. Currently, periodic review is done to ascertain if fees are achieving cost recovery; this is done manually on paper forms and multiple spreadsheets.

### Budget Amendments

Support for budget amendment processing and notification. The data pertaining to amendments should be entered once on a screen by the analyst responsible for the departmental budget being amended. This entry should result in the production of the necessary Financial Information System forms, the letter of notification to the department and the list/summary of budget amendments. Such summary shall subsequently be formatted for inclusion in the proposed budget.

### Routine Notices

Provide a store of regularly used letters such that only variables must be entered to send updated information or notification.

**AGREEMENT FOR  
PROFESSIONAL SERVICES**

**THIS AGREEMENT**, is made this \_\_, day of \_\_\_\_\_, 200\_\_, by and between the **CITY OF ROCHESTER**, a municipal corporation having its principal office located at City Hall, 30 Church Street, Rochester, New York 14614, hereinafter referred to as the "City" and \_\_\_\_\_, with offices located at \_\_\_\_\_, Rochester, N.Y. 14\_\_\_\_, hereinafter referred to as the "Consultant".

**WITNESSETH:**

**WHEREAS**, the City desires to secure the professional services of a Consultant to provide services required for \_\_\_\_\_, hereinafter referred to as the "Project", and,

**WHEREAS**, the Consultant has the necessary equipment, personnel and expertise to perform the Project.

**NOW THEREFORE**, in consideration of the terms and conditions contained herein, the parties do covenant and agree as follows:

**SECTION 1.      DESCRIPTION OF CONSULTANT'S SERVICES**

**A.** The Consultant shall, upon receipt of Notice to Proceed, or upon the commencement date specified in Section 2 hereof, whichever is earlier, perform in a professional and workmanlike manner to the reasonable satisfaction of the City, all of the services required below or reasonably required in order to carry out the services set forth herein:

**B.** Except as otherwise specified in this Agreement, all equipment, materials and supplies required to carry out the provisions of this Agreement and to perform the services described above shall be furnished by the Consultant and shall be fit for their purpose to the reasonable satisfaction of the City.

## **SECTION 2.      TERM**

The services required of the Consultant pursuant to this Agreement shall commence on \_\_\_\_\_  
\_ and shall terminate on \_\_\_\_\_.

## **SECTION 3.      FEE**

**A.** The City agrees to pay and the Consultant agrees to accept as full payment for the work and services performed pursuant to this Agreement, the following payable in the following manner:

**1.(describe payment as being either a lump sum payment or a phased payment, e.g. monthly, quarterly, upon completion of tasks etc.)**

**B.** The total fee payable by the City pursuant to this Agreement, including all costs and disbursements whatsoever shall not exceed the sum of \_\_\_\_\_Dollars (\$\_\_\_\_\_). No payment shall be made except upon the submission of duly executed vouchers upon forms which shall be supplied by the City.

## **SECTION 4.      AUTHORIZED AGENT FOR THE CITY AND THE CONSULTANT**

**A.**            The City hereby designates:

**B.**            The Consultant hereby designates:

or their authorized representatives in case of absence, as Authorized Agents of the City and of the Consultant for receipt of all notices, demands, vouchers and other communications and all orders, permissions, and directions pursuant to this Agreement, which shall be sufficiently communicated, given and/or delivered if dispatched by registered or certified mail, postage prepaid, or delivered personally to the authorized agents designated herein. The parties reserve the right to designate other or additional agents upon written notice to the other party which shall be signed by the Authorized Agent of the requesting party.

## **SECTION 5.      INDEMNIFICATION**

The Consultant hereby agrees to defend, indemnify and save harmless the City of Rochester against any and all liability, loss, damage, suit, charge, attorney's fees and expenses of whatever kind or nature which the City may directly or indirectly incur, or be required to pay by reason or in consequence of the intentionally wrongful or negligent act or omission of the Consultant, its agents, employees or contractors. If a claim or action is made or brought against the City and for which the Consultant may be responsible hereunder in whole or in part, then the Consultant shall be notified and shall handle or participate in the handling of the defense of such matter.

## **SECTION 6.      WORKERS' COMPENSATION AND DISABILITY BENEFITS INSURANCE**

This Agreement shall be void and of no effect unless the Consultant shall secure compensation for the benefit of, and keep insured during the life of this Agreement, any and all employees as are required to be insured under the provisions of the Workers' Compensation Law of the State of New York or the state of the Consultant's residence, whichever may apply. The Consultant shall provide proof to the City, duly subscribed by an insurance carrier, that such Workers' Compensation and Disability Benefits coverage have been secured.. In the alternative, Consultant shall provide proof of self-insurance or shall establish that Workers' Compensation and/or Disability Benefits coverage is not required by submitting a completed New York State Workers' Compensation Board's form WC/DB-100.

## **SECTION 7.      EQUAL OPPORTUNITY**

### **A.      General Policy**

The City of Rochester, New York reaffirms its policy of Equal Opportunity and its commitment to require all contractors, lessors, vendors and suppliers doing business with the City to follow a policy of

Equal Opportunity, in accordance with the requirements set forth herein. The City further does not discriminate on the basis of disability, in admission or access to, or treatment or employment in its programs and activities. The City is including these policy statements in all bid documents, contracts, and leases. Contractors, lessors, vendors and suppliers shall comply with all State and Federal Equal Opportunity laws and regulations and shall submit documentation regarding Equal Opportunity upon the City's request.

**B. Definitions**

GOOD FAITH EFFORT - shall mean every reasonable attempt to comply with the provisions of this policy by making every reasonable effort to achieve a level of employment of minority groups and female workers that is consistent with their presence in the local work force.

MINORITY GROUP PERSONS - shall mean a person of Black, Spanish surname American, Asian American or American Indian ethnic or racial origin and identity.

**C. Compliance**

The Consultant shall comply with all of the following provisions of this Equal Opportunity Requirement:

1. The Consultant shall not discriminate on the basis of age, race, creed, color, national origin, sex, sexual orientation, disability or marital status in the performance of services or programs pursuant to this agreement. The Consultant agrees to make a good faith effort to employ minority group persons and females and that in hiring employees and treating employees performing work under this Agreement or any subcontract hereunder, the Consultant, and its subcontractors, if any, shall not, by reason of age, race, creed, color, national origin, sex, sexual orientation, disability or marital status discriminate against any person who is qualified and available to perform the work to which the employment relates. The Consultant agrees to take affirmative action to ensure that applicants are employed and that employees are treated during their employment, without regard to their race, color, religion, sex, age or national origin. Such actions shall include, but not be limited to the following: employment, upgrading, demotions or transfers, recruitment and recruitment advertising, layoffs, terminations, rates of pay and other forms of compensation, and selection for training, including apprenticeship. The Consultant agrees to post notices in conspicuous places available to employees

and applicants for employment, and to include language in all solicitations or advertisements for employment placed by or on behalf of the Consultant, reflecting this nondiscrimination policy.

2. If the Consultant is found guilty of discrimination in employment on the grounds of age, race, creed, color, national origin, sex, sexual orientation, disability or marital status by any court or administrative agency that has jurisdiction pursuant to any State or Federal Equal Opportunity Laws or regulations, such determination will be deemed to be a breach of contract, and this Agreement will be terminated in whole or part without any penalty or damages to the City on account of such cancellation or termination, and the Consultant shall be disqualified from thereafter selling to, submitting bids to, or receiving awards of contract with the City of Rochester for goods, work, or services until such time as the Consultant can demonstrate its compliance with this policy and all applicable Federal and State Equal Opportunity laws and regulations.

3. The Consultant shall cause the foregoing provisions to be inserted in all subcontracts, if any, for any work covered by this Agreement so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to subcontracts for standard commercial supplies or raw materials.

## **SECTION 8. LIVING WAGE REQUIREMENTS**

### **A. Applicability of Living Wage Requirements**

This section shall apply and the Consultant shall comply with the requirements of Section 8A-18 of the Municipal Code of the City of Rochester, known as the "Rochester Living Wage Ordinance", in the event that payments by the City to the Consultant under this Agreement shall exceed fifty thousand dollars (\$50,000) during a period of one year. If this Agreement is amended to increase the amount payable hereunder to more than fifty thousand dollars (\$50,000) during a period of one year, then any such amendment shall be subject to Section 8A-18.

### **B. Compliance**

The Consultant shall pay no less than a Living Wage to any part-time or full-time Covered Employee, as that term is defined in Section 8A-18B, who directly expends his or her time on this Agreement, for the time said person actually spends on this Agreement. Living Wage, as set forth in this Agreement, shall be the hourly amount set forth in Section 8A-18(C)(2), and any adjustments thereto,



which shall be made on July 1 of each year and shall be made available in the Office of the City Clerk and on the City's website, at [www.cityofrochester.gov](http://www.cityofrochester.gov). Consultant shall also comply with all other provisions of Section 8A-18, including but not limited to all reporting, posting and notification requirements and shall be subject to any compliance, sanction and enforcement provisions set forth therein.

**C. Exemption**

This section shall not apply to any of Consultant's employees who are compensated in accordance with the terms of a collective bargaining agreement.

**SECTION 9. COMPLIANCE WITH MACBRIDE PRINCIPLES**

The Consultant agrees that it will observe Ordinance No. 88-19 of the City of Rochester, which condemns religious discrimination in Northern Ireland and requires persons contracting to provide goods and services to the City to comply with the MacBride Principles. A copy of the MacBride Principles is on file in the Office of the Director of Finance.

**SECTION 10. COMPLIANCE WITH ALL LAWS**

The Consultant agrees that during the performance of the work required pursuant to this Agreement, the Consultant, and all employees working under the Consultant's direction shall strictly comply with all local, state, or federal laws, ordinances, rules or regulations controlling or limiting in any way the performance of the work required by this Agreement. Furthermore, each and every provision of law and clause required by law to be inserted in this agreement shall be deemed to be inserted herein, and this Agreement shall be read and enforced as though it were included herein. If, through mistake or otherwise, any such provision is not inserted, or is not properly inserted, then upon the application of either party this Agreement shall be forthwith physically amended to make such insertion or correction.

**SECTION 11. AUDIT**

The Consultant agrees that the City shall, until the expiration of three (3) years after final payment, have access to and the right to examine any directly pertinent books, documents, papers and records of the Consultant and of any of the subcontractors engaged in the performance of and involving transactions related to this Agreement or any subcontracts.

## **SECTION 12. PROHIBITION AGAINST ASSIGNMENT**

The Consultant is prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this Agreement or any of its contents, or of any right, title or interest therein, or of the power to execute this Agreement, to any other person or corporation without the previous consent, in writing, of the City.

## **SECTION 13. OBLIGATIONS LIMITED TO FUNDS AVAILABLE**

The parties specifically agree that the Consultant's duty to perform work under this agreement and the City's obligation to pay for that work, including any out-of-pocket and subcontracting expenses of the Consultant, shall be limited to the amount of money actually appropriated by the City Council and encumbered (i.e., certified as being available) for this Project by the City Director of Finance (or his authorized deputy). This provision shall limit the parties' obligation to perform even though this Agreement may provide for the payment of a fee greater than the appropriated and encumbered amount.

## **SECTION 14. EXTENT OF AGREEMENT**

This Agreement constitutes the entire and integrated Agreement between and among the parties hereto and supersedes any and all prior negotiations, agreements and conditions, whether written or oral. Any modification or amendment to this Agreement shall be void unless it is in writing and subscribed by the party to be charged or by the party's authorized agent.

## **SECTION 15. STATUS AS INDEPENDENT CONTRACTOR**

The Consultant, as an independent contractor, covenants and agrees to conduct the work under this Agreement consistent with such status. The Consultant shall neither pretend nor claim to be an officer or employee of the City by reason hereof, nor make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the City, including but not limited to Workers' Compensation coverage, unemployment insurance benefits, social security coverage or retirement membership or credit.

## **SECTION 16. LAW**

This Agreement shall be governed by and under the laws of the State of New York. In the event that a dispute arises between the parties, venue for the resolution of such dispute shall be the County of Monroe, New York.

## **SECTION 17. NO-WAIVER**

In the event that the terms and conditions of this Agreement are not strictly enforced by the City, such non-enforcement shall not act as or be deemed to act as a waiver or modification of this Agreement, nor shall such non-enforcement prevent the City from enforcing each and every term of this Agreement thereafter.

## **SECTION 18. SEVERABILITY**

If any provision of this Agreement is held invalid by a court of law, the remainder of this Agreement shall not be affected thereby if such remainder would then continue to conform to the laws of the State of New York.

## **SECTION 19. TERMINATION FOR DEFAULT**

The performance of work under this Agreement may be terminated by the City in accordance with this clause in whole, or from time to time in part, whenever the Consultant shall default in the performance of this Agreement in accordance with its terms. Upon termination, the City may take over the work to be performed and complete the same by contract or otherwise, and the Consultant shall be liable to the City for any excess cost occasioned thereby. The total fee payable to the Consultant under this Agreement upon such termination shall be such proportionate part of the total fee as the value of the work satisfactorily completed and delivered to the City bears to the value of the work contemplated by this Agreement.

IN WITNESS WHEREOF, the parties have duly executed this Agreement on the date first written above.

**CITY OF ROCHESTER**

Approved as to form:

BY: \_\_\_\_\_  
William A. Johnson, Jr., Mayor

By: \_\_\_\_\_  
Corporation Counsel  
City of Rochester

**CONSULTANT**

Approved for funds:

By: \_\_\_\_\_  
Director of Finance  
City of Rochester

BY: \_\_\_\_\_  
Name: \_\_\_\_\_  
Taxpayer Id. No.: \_\_\_\_\_

STATE OF NEW YORK)  
COUNTY OF MONROE ) SS:

On this \_\_\_\_\_ day of \_\_\_\_\_, 200\_, before me the subscriber, personally came WILLIAM A. JOHNSON, JR., known, who being by me duly sworn, did depose and say that he resides in the City of Rochester; that he is the Mayor of the City of Rochester, the municipal corporation described in and which executed the above instrument; and that he signed his name to the foregoing instrument by virtue of the authority vested in him by the laws of the State of New York and the local laws and ordinances of the City of Rochester.

\_\_\_\_\_  
Notary Public

STATE OF NEW YORK)  
COUNTY OF MONROE) ss.:

On the \_\_\_\_\_ day of \_\_\_\_\_, 200\_ before me, the undersigned, a Notary Public in and for said State, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Notary Public